

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1051 of 1998

in

SPECIAL CIVIL APPLICATION No 5440 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

AJITSINH HARMANSINH ARORA

Versus

COLLECTOR ANAND

Appearance:

MR RC JANI for Appellants
NOTICE SERVED for Respondent No. 1
MR PK JANI for Respondent No. 2

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.M.KAPADIA

Date of decision: 15/10/98

ORAL JUDGEMENT

#. Admitted. Mr.M.A.Bukhari, learned Asstt. Govt.

Pleader appears and waives service of notice of admission on behalf of respondent No.1. Mr. P. K. Jani, learned counsel appears for the respondent No. 2 and waives service of notice of admission. In the facts and circumstances of the case, the matter is taken up for final hearing today.

#. This appeal is filed against judgment and order passed by the learned Single Judge in SCA No. 5440 of 1998. By the said order, the learned Single Judge dismissed the petition filed by the petitionersappellants and also directed them to handover vacant and peaceful possession of the land in question to respondent No.1 on or before 31-3-1999.

#. Mr. Jani, learned counsel for the appellant raised various contention. It would not be appropriate to deal with and decide those contentions as we are of the view that an application made by the appellants for grant of non agricultural use of land under section 65 of the Bombay Land Revenue Code ought to have been decided by the first respondent in accordance with law.

#. No doubt, the application had already been made but it is directed that the appellant will make fresh application for the said purpose before the respondent No.1. If such an application will be made before 16th November,1998, the respondent No.1` will decide the same strictly in accordance with law and on its own merits.

#. We may also state that we are not expressing any opinion on the merits of the matter and it is open for the all parties to raise all contention available to them. We may also state that the authorities will decide it on its own merits without being influenced by the observations made by us as well as by the learned Single Judge. If such an application is made within stipulated time, it will be deiced in accordance with law within two months from the receipt of the application. It is also directed that status quo as on today will be maintained till final decision of the Collector and ten days thereafter. The appeal is accordingly allowed to that extent only. No order as to costs.

(C.K.Thakkar,J.)

Date ; 15-10-1998 (A.M.Kapadia,J.)

